



Department of Corrections
ADMINISTRATIVE BULLETIN

Subject: IMPLEMENTATION OF
CALIFORNIA SUPREME COURT
DECISION *PEOPLE v JONES*

Number:

97/5

Date Issued:

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The purpose of this Administrative Bulletin (AB) is to establish policy and procedure to implement the California Supreme Court decision in People v Jones, (1995) 11 Cal.4th 118, 44 Cal.Rptr.2d 164 and to notify staff as well as all civil addict commitments of the implementation method decision.

BACKGROUND

Effective July 29, 1980 Welfare and Institutions Code (W&IC) Section 3201(c) was amended to allow the good behavior/participation credit provisions of Penal Code (PC) Section 2930 et. seq. to be applicable to civil addict commitments. Civil addict commitments have been granted good behavior/participation credit since then.

In 1982 PC 2931, which provides for the granting of good behavior and participation credits, was amended to restrict the application of this credit to those persons whose crime was committed prior to January 1, 1983.

On August 31, 1995 the California Supreme Court ruled that although W&IC 3201 entitles civil addicts to good behavior/participation credits provided under PC 2931, the credits are not available for any person including civil addict commitments whose crime was committed on or after January 1, 1983.

This decision does not affect civil addict commitments received pursuant to W&IC 3050, 3100, or 3051 who have a Program Expiration Date (PED) which precedes their Custody Expiration Date (CED) or civil addict commitments who have been placed on civil addict parole, whether they are in the community or have been placed in custody as a result of violating their conditions of Parole.

This decision affects the following civil addicts committed under W&IC 3051:

- (1) New civil addict commitments received on or after August 31, 1995.
- (2) Civil addict commitments who are presently in custody at the California Rehabilitation Center (CRC) or branch of CRC and who otherwise would be released to civil addict parole after spending two-thirds of their civil commitment (CED) in custody prior to this decision.



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- (3) Outpatients who are currently in local custody pending adjudication of local charges and who would otherwise be placed on civil addict parole upon reaching their CED prior to this decision.
- (4) Outpatients who violate their conditions of release in the future and who are subsequently returned to CRC or branch of CRC and who would otherwise be placed on civil addict parole upon reaching their CED prior to this decision.

POLICY AND PROCEDURE

I. NEW COMMITMENTS RECEIVED ON OR AFTER AUGUST 31, 1995

A. POLICY

Good time/participation credits shall not be calculated for new commitments received on or after August 31, 1995. Time shall be calculated in accordance with the entire sentence (commitment) imposed by the court including any presentence or postsentence credits which have been granted. This shall establish the PED.

Unless they are excluded from the program these civil addict commitments will remain at CRC or branch of CRC until such time as they are released to Outpatient Status (OPS) by the Narcotic Addict Evaluation Authority (NAEA) or they are released to civil addict parole as a result of reaching their PED's.

B. PROCEDURE

RECORDS STAFF: The Case Records Specialists at CRC shall discontinue computing a CED for new civil addict commitments received at CRC or branch of CRC on or after August 31, 1995. Only the PED will be calculated. Note: The PED represents the total length of the commitment minus any court granted presentence and departmental applied postsentence credits.

Those cases received on or after August 31, 1995 who had a CED shall be recalculated. Case Records personnel shall be responsible to generate an updated California Department of Corrections (CDC) Form 188-L, Legal Status Summary. The updated CDC Form 188-L along with a CDC Form 1840, Time Credit Notice (Attachment A), for civil addict commitments shall be sent to the Correctional Counselor in charge of the case.



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Upon return of CDC Form 1840 to the Records Department, the signed and witnessed CDC Form 1840 shall be placed in the legal section of the Central File. The Case Records Specialist shall make a date entry on CDC Form 112, Chronological History, that CDC Form 1840 has been signed and that the civil addict commitment has opted to remain in the civil addict program or has requested exclusion.

CASEWORK STAFF: Correctional Counselor I's and Community Correctional Facility (CCF) Parole Agents shall use CDC Form 1840 to inform all new civil addict commitments received from court pursuant to W&IC 3051 on or after August 31, 1995 that they have a choice to continue in the civil addict program or be returned to the committing court.

In the event that the civil addict commitment elects to remain in the program, he/she shall be treated at CRC or branch of CRC until such time as he/she is released to OPS by the NAEA or on their PED, whichever comes first.

Should a civil addict commitment choose to be excluded from the program, he/she shall be scheduled for an exclusion review by the Unit Classification Committee (UCC).

Effective immediately CDC Form 1840 shall be part of the intake process for new commitments in the N-Number Reception Center at CRC.

**II. NEW COMMITMENTS RECEIVED PRIOR TO AUGUST 31, 1995 AND
OUTPATIENT VIOLATORS CURRENTLY AT CRC OR BRANCH OF CRC WHO
HAVE CED'S WHICH PRECEDE THEIR PED'S**

A. POLICY

Effective immediately any civil addict commitment received prior to August 31, 1995 who is confined at CRC or branch of CRC, who is within 90 days of reaching his/her CED which precedes the PED shall be given two options.

(1) Remain in the civil addict program:

Civil addict commitments who remain in the program and who are not in referral status, shall be placed in referral status within 90 days or less of reaching their CED. A CDC Form 611-C, Release Program Study, will be prepared and they shall be scheduled for review by the NAEA.



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Every effort shall be made to ensure that the civil addict commitment completes the program requirements, which shall be taken into consideration by the NAEA in determining whether the person is ready for release to OPS.

In the event release is granted, the civil addict commitment shall be released to OPS subject to the conditions of release imposed by the NAEA and subject to being returned to CRC or branch of CRC.

In the event the civil addict commitment reaches his/her PED prior to successfully completing OPS, whether in local custody as a violator or not, he/she shall be placed on civil addict parole pursuant to W&IC 3201(c).

In the event release is postponed, the civil addict commitment shall remain in the program until such time as he/she is released to OPS by the NAEA or is released to civil addict parole as a result of reaching his/her PED in accordance with W&IC 3201(c).

Following the hearing and regardless of the outcome, the CED shall be eliminated, and the PED shall remain in effect.

(2) Request exclusion from the civil addict program:

Civil addict commitments who wish to be excluded shall be referred back to the committing court for the vacating of the civil commitment and further proceedings on the criminal charges, pursuant to Department Operations Manual (DOM) subsection 76010.9.2.

B. PROCEDURE

RECORDS STAFF: The Case Records Staff at the CRC shall track the CED's and notify the appropriate Correctional Counselor 90 days prior to the CED's in accordance with existing procedures.

In addition to CDC Form 188-L, CDC Form 1840 shall be sent to the Correctional Counselor.

Upon return to the Records Department, the signed and witnessed CDC Form 1840 shall be placed in the legal section of the Central File.



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The Case Records Specialist shall make a date entry on CDC Form 112 that CDC Form 1840 has been signed and that the civil addict commitment has elected to remain in the civil addict program or has requested exclusion. In the event the civil addict commitment has elected to remain in the program and his/her CED precedes the PED, CDC Form 611-C shall be processed and the civil addict commitment shall be referred to the NAEA for review on or before reaching his/her CED. These referrals shall have CDC Form 128-S, Civil Addict Chrono (Attachment B), signed by the Classification and Parole Representative (C&PR) explaining the reason for the referral and shall be included in the routine referral process.

CORRECTIONAL COUNSELOR STAFF: Correctional Counselor I's shall use CDC Form 1840 to inform all civil addict commitments received before August 31, 1995 that they have a choice to continue in the civil addict program or be returned to the committing court.

In the event that the civil addict commitment elects to remain in the program the Correctional Counselor I shall prepare CDC Form 611-C and send it to the Records Department with the signed CDC Form 1840.

Should a civil addict commitment choose to return to court for further sentencing, he/she shall be scheduled for an exclusion review by the UCC.

III. OUTPATIENT VIOLATORS WHO ARE CURRENTLY IN LOCAL CUSTODY OR WHO ARE PLACED IN CUSTODY IN THE FUTURE WHO HAVE A CED PRECEDING THEIR PED AND WHO OTHERWISE WOULD BE PLACED ON CIVIL ADDICT PAROLE UPON REACHING THE CED PRIOR TO THE JONES DECISION

A. POLICY

Outpatients who are in local custody who reach their CED's shall not be released from local custody to civil addict parole unless they reach their PED's or the NAEA, based on the merits of the case, grants an oral order of release or reinstates the person to OPS. These individuals shall be subject to being returned to CRC or branch of CRC until they are rereleased by the NAEA or reach their PED whichever comes first. In the event the person is returned to CRC or branch of CRC he/she shall be given two options:

- (1) Remain in the civil addict program



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The outpatient returnee shall be treated at CRC or branch of CRC until such time as he/she is rereleased to OPS or is released to civil addict parole as a result of reaching his/her PED.

- (2) Request exclusion from the civil addict program.

The outpatient returnee shall be referred to the court of commitment for the vacating of the civil commitment and further proceedings on the criminal charges.

B. PROCEDURE

PAROLE AGENT STAFF: In the event that an outpatient has been arrested, the Parole Agent shall contact CRC Case Records N-Number Retention Unit to establish the current status of the person.

If the person had a CED preceding the PED which would have prohibited the return of the person to CRC or branch of CRC prior to the Jones decision, the Parole Agent shall serve the civil addict commitment with CDC Form 1841, Change of Conditions - In Re Time Credits (Attachment C), advising that good time/participation credits (1:2) no longer apply. Therefore, the CED has been eliminated.

The Parole Agent shall attach the signed CDC Form 1841 to the Violation Report and process according to existing procedure. If the outpatient refuses to sign CDC Form 1841, the Parole Agent shall write "refuses to sign" on the acknowledgment line and attach the notice to the Violation Report and process according to existing procedure.

RECORDS STAFF: In the event the outpatient is returned to CRC or branch of CRC, the Case Records Specialist at CRC shall recompute the PED and generate an updated CDC Form 188-L. The updated CDC Form 188-L, along with CDC Form 1840, shall be sent to the Correctional Counselor in charge of the case.

Upon return of the CDC Form 1840 to the Records Department the signed and witnessed CDC Form 1840 shall be placed in the legal section of the Central File. The Case Records Specialist shall make a date entry on CDC Form 112 that CDC Form 1840 has been signed and the outpatient returnee has elected to remain in the civil addict program or has requested exclusion.



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CASEWORK STAFF: Correctional Counselor I's and CCF Parole Agents shall use CDC Form 1840 to inform all outpatient returnees who reached their CED prior to being returned to CRC that they have a choice of remaining in the civil addict program or being returned to the committing court.

In the event the outpatient returnee elects to remain in the program, he/she shall be treated at CRC or branch of CRC until such time as he/she is rereleased to OPS by the NAEA or to civil addict parole upon reaching his/her PED whichever occurs first.

In the event the outpatient returnee elects exclusion, he/she shall be scheduled for an exclusion review by the UCC.

IV. OUTPATIENTS WHO VIOLATE THEIR CONDITIONS OF RELEASE IN THE FUTURE AND WHO ARE SUBSEQUENTLY RETURNED TO CRC AND WOULD OTHERWISE BE RELEASED TO CIVIL ADDICT PAROLE UPON REACHING THEIR CED.

A. POLICY

Effective immediately any civil addict commitment received prior to August 31, 1995 who is returned to CRC or branch of CRC as an outpatient violator, who has not previously elected to continue participation in the civil addict program by signing CDC Form 1840 shall be given two options:

- (1) Remain in the civil addict program under the policy conditions listed in II. A. above.
- (2) Request exclusion from the civil addict program.

Civil addict commitments who wish to be excluded shall be referred back to the committing court for the vacating of the civil commitment and further proceedings on the criminal charges pursuant to DOM 76010.9.2.

B. PROCEDURE

RECORDS STAFF: The Case Records Staff at CRC shall track the CED's of those civil addict commitments who have not yet signed CDC Form 1840.



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In addition to CDC Form 188-L, CDC Form 1840 shall be sent to the Correctional Counselor provided a signed CDC Form 1840 is not already in the Central File.

Upon return of CDC Form 1840 to the Records Department, the signed and witnessed CDC Form 1840 shall be placed in the legal section of the Central File.

The Case Records Specialist shall make a date entry on CDC Form 112 that CDC Form 1840 has been signed and that the civil addict commitment has elected to remain in the civil addict program or has requested exclusion.

Civil addict commitments who elected to remain in the program, and whose CED precedes their PED shall be placed in Referral Status and referred to the NAEA for review on or before reaching their CED in accordance with procedures outlined in Section II B. These referrals shall have CDC Form 128-S, signed by the C&PR, explaining the reason for the referral and included in the routine referral process.

CASEWORK STAFF: Correctional Counselor I's and CCF Parole Agents shall use CDC Form 1840 to inform all outpatient returnees who were originally received as new commitments before August 31, 1995 and had a CED that precedes the PED, that they have a choice to continue in the civil addict program or be returned to the committing court. Should a civil addict commitment choose to return to court for further proceedings, he/she shall be scheduled for an exclusion review by the UCC.

The CDC Form 1840, CDC Form 128-S, and CDC Form 1841 will be available through Prison Industry Authority at California State Prison, Sacramento. Please inform all persons of the contents of this bulletin which shall remain in effect until incorporated into DOM 76010 and 82010. Inquiries regarding this AB may be directed to Judy Metz, Chief, Correctional Case Records Services, at (916) 323-4062 or CALNET 473-4062.

GREGORY W. HARDING
Chief Deputy Director
Support Services

Attachments